S T A T E O F N E W Y O R K

1025--A

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. KLEIN, ADAMS, ADDABBO, BRESLIN, DIAZ, DILAN, HASSELL-THOMPSON, HUNTLEY, MONTGOMERY, OPPENHEIMER, PARKER, PERKINS, SAMPSON, SAVINO, SERRANO, SMITH, STAVISKY, STEWART-COUSINS, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general obligations law, in relation to compensation for injury caused by the illegal sale of alcoholic beverages to a person under the age of twenty-one years

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 11-100 of the general obligations law, as amended by chapter 274 of the laws of 1985, is amended to read as follows:

1. Any person who shall be injured in person, property, means of support or otherwise, by reason of the intoxication or impairment of ability of any person under the age of twenty-one years, whether resulting in his OR HER death or not, shall have a right of action to recover actual damages against:

(A) any person who knowingly causes such intoxication or impairment of ability by unlawfully furnishing to or unlawfully assisting in procuring alcoholic beverages for such INTOXICATED OR IMPAIRED person with knowledge or reasonable cause to believe that such person was under the age of twenty-one years[.]; OR

(B) ANY PERSON OR ENTITY THAT DISTRIBUTES OR MANUFACTURES MORE THAN TEN FALSE IDENTIFICATION CARDS OR OTHER FORGED INSTRUMENTS, AS SUCH TERM IS DEFINED IN SECTION 170.00 OF THE PENAL LAW, WHICH MISREPRESENTS THE AGE AND/OR IDENTITY OF ANY PERSON, AND KNOWINGLY SELLS SUCH CARDS OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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INSTRUMENTS TO A PERSON UNDER THE AGE OF TWENTY-ONE YEARS, AND WHICH ARE USED TO UNLAWFULLY PROCURE ALCOHOLIC BEVERAGES THAT CAUSE OR CONTRIBUTE TO SUCH OTHER PERSON'S INTOXICATION OR IMPAIRMENT OF ABILITY. ACTUAL KNOWLEDGE OF THE SPECIFIC PROCUREMENT OF THE ALCOHOLIC BEVERAGES THAT CAUSE OR CONTRIBUTE TO THE INTOXICATION OR IMPAIRMENT SHALL NOT BE NECESSARY.

S 2. Section 11-100 of the general obligations law is amended by adding a new subdivision 1-a to read as follows:

1-A. IN ANY ACTION COMMENCED PURSUANT TO PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION, IT SHALL BE AN AFFIRMATIVE DEFENSE THAT THE PERSON OR ENTITY PROVIDING AN IDENTIFICATION CARD OR INSTRUMENT STATING THAT A MINOR IS TWENTY-ONE YEARS OF AGE OR OLDER SOLD OR PROVIDED SUCH IDENTIFICATION CARD OR INSTRUMENT IN RELIANCE UPON A PHOTOGRAPHIC IDENTIFICATION CARD APPARENTLY ISSUED BY A GOVERNMENTAL ENTITY, WHICH STATED THAT THE RECIPIENT WAS TWENTY-ONE YEARS OF AGE OR OLDER AND WHICH WAS SUBJECT TO A TRANSACTION SCAN PURSUANT TO SECTION SIXTY-FIVE-B OF THE ALCOHOLIC BEVERAGE CONTROL LAW.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.